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An Analysis of Right to Education Act - 2009

Brief description of Act

The Directive principles (Article 45) of constitution of India has already direct the Govt. of India. In India 1950 - " The State shall endeavour to provide within a period of 10 years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of 14 years. After the 60 years Govt. will try to fulfill this requirement by an Act.

Initially draft of this act was issues by government of India in 2005. Thereafter Bill was present in 2008 and finally it become Act - 2009, 86th amendment to the constitution of India. This Act will be called The Right of Children to Free and Compulsory Education Act 2009. Notification has been issued and it will be implement from 1st April 2010. This act will be an important mile stone on the path of universalization of elementary education in India. Although, before this Act, government has already adopted the policy of universalization of elementary education and efforts to achieve this goal are already running. Private school have their own hierarchy according to quality, fee structure and, accessibility. We does not have common school even for elementary education.

Every child is getting education according to income of his/her parents. Quality and accessibility of elementary education depend upon the his/her income of parents. We analyze at what extent this Act will help to achieve the goal of Free and Compulsory Education to every child without any discrimination.

According to this Act every child of the age of 6 to 14 years shall have free and compulsory education in neighborhood school till the completion of elementary education. No child shall be liable to pay any fee or any charges or expenses which may prevent him or her from pursuing and completing the elementary education. A child suffering from disability is also have same right where a child about a 6 years of age and not getting admitted in any school shall be admitted in class appropriate to his/her age and he also have a right to receive special training within time limit as may be prescribed. He/she shall be entitled to free education till completion of elementary education even after age of 14 years.

The term 'compulsory education' means obligation of the appropriate Govt. to insure the compulsory admission, attendance, completion of elementary education, and ensure availability of neighborhood school. Govt. ensure child belong to weaker section and disadvantage group are not discriminated. And Govt. provide infrastructure, school building, teaching staff and learning equipment and also ensure good quality elementary education.

Local authority has given a greater responsibility to maintain the records of children up to the age of 14 years residing with in its jurisdiction. Authority also ensure admission of children of migrant families. These school shall be reimbursed so incurred by it to the extant of per child expenditure incurred by the state are the actual which is ever is less. The said Act prohibit capitation fee, screening procedure. Both are the punishable with fine. No private school function without obtaining certificate of reorganization from the authority as may be prescribed. The schools not fulfill the norms and standard for reorganization they have to fulfill them at its own expenses within the 3 years from the date of commencement of the Act. This Act seems to be very ambitious and vast but itself have feasibility and implementation problem.

As we know the education is concurrent responsibility of central and state governments. Therefore finance for the implementation of this Act is also a concurrent responsibility. How far this responsibility will be bear and what proportion is not clear in this Act. The study done by Jain (2001), shows that even the 6% of GDP expenditure on education may not fulfill the target given in Act. We have to opt (PPP) public private partnership and alternative and innovative education in the area of free and compulsory elementary education. Currently we are spending less than 4% of GDP on education.

In the Act neighborhood is not defined clearly, elite private schools are located in the elite areas where in the neighborhood may not be weaker section and disadvantaged group population is available. And there may be case where the low profile private schools are located the high density of population of these section and group available which may not be accommodate sufficiently.

In the Act responsibility of National commission for Protect of Child Rights and State commission for Protection of child rights are given huge responsibility to monitor and enforcement of this Act, which are overburdened with their regular work. The commissions do not have expert manpower, machinery and legal power to fulfill this greater responsibility.

The Act is a not well defined, there are so many 'may' in the Act rather than 'shall' so there is too much gray area in the Act. This must be very tight and unambiguous for smooth implementation. The Act does not take into the serious account the recommendation of a par-

liamentary standing committee.

There was no serious debate in parliament on such an important issue.

The punishment system in the Act is only matters related to the Capitation fee, screening procedure and reorganization of private schools and this is also limited up to monetary fine only. Act clearly says that no suit or legal procedure shall lie against the any appropriate Govt., Commission for Protection for Child Rights, School Management Committee (SMC) or any person in pursuance of this Act.

REFERENCE

Govt. of India (2009), Right of Children to Free and Compulsory Education Act 2009, Ministry of Law and Justice, Legislative Department.
Jain Pankaj, Dholakia Ravindra (2009), Feasibility of implementation of Right to Education Act, Economy and Political Weekly, Vol. XLIV, No 25, June 20, 2009. Ramachandran, Vimala (2009), Right to information Act: A Comment, Economy and Political Weekly, Vol. XLIV, No 28, July 11, 2009.